

Simon Franzini (Cal. Bar No. 287631)  
simon@dovel.com

Martin Brenner (Cal. Bar No. 333540)  
martin@dovel.com

DOVEL & LUNER, LLP  
201 Santa Monica Blvd., Suite 600  
Santa Monica, California 90401  
Telephone: (310) 656-7066  
Facsimile: (310) 656-7069

*Attorneys for Plaintiff*

Peter B. Maretz (Cal. Bar No. 144826)  
pmaretz@stokeswagner.com

Christina J. Tantoy (Cal. Bar No. 308237)  
ctantoy@stokeswagner.com

Omar V. Hernandez (Cal. Bar No. 340089)  
ohernandez@stokeswagner.com

STOKES WAGNER ALC  
401 W. A Street, Suite 2235  
San Diego CA 92101  
Telephone: (619) 232-4261  
Facsimile: (619) 232-4840

*Attorneys for Defendant*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

KRISTINA HERNANDEZ, individually  
and on behalf of all others similarly  
situated,

*Plaintiff,*

v.

EVENT TICKETS CENTER, INC.,

*Defendant.*

Case No. 2:24-CV-01983-DAD-AC

**Joint Status Report**

Date: November 26, 2024

Time: 1:30 PM

Hon. Dale A. Drozd

[Zoom Telephonic Conference]

Pursuant to Federal Rule of Civil Procedure 26(f), Local Rule 240, and this Court's Order Setting Status (Pretrial Scheduling) Conference [ECF. No. 3], Plaintiff Kristina Hernandez ("Plaintiff") and Defendant Event Tickets Center, Inc. ("Defendant," collectively "the Parties") have met and conferred and hereby submit the following Joint Scheduling Report.

**A. Summary of Claims and Defenses.**

**Plaintiff's Position:**

Plaintiff asserts claims under California's False Advertising Law (Count I); the Consumer Legal Remedies Act (Count II); the Unfair Competition Law (Count III); and a quasi-contract claim under California's common law (Count IV) on behalf of herself and the proposed class.

In short, Plaintiff alleges that Defendant has for years used junk fees in the form of drip pricing to increase its revenues. Junk fees lure consumers into a transaction with Defendant based on lower, advertised fees. Then, just before the checkout process concludes, Defendant adds previously undisclosed fees that substantially increase the total price of the purchase. This practice deceives and harms consumers and competition, is unfair, and violates California law (as well as laws of other states and the federal FTC Act). Plaintiff purchased concert tickets online from Defendant and was charged an unlawful junk fee. Plaintiff intends to file a motion for class certification and seeks to represent a class of those who purchased tickets from Defendant while in the state of California before March 1, 2024.

**Defendant's Position:**

Defendant operates a ticket resell marketplace website called eventsticketcenter.com. Defendant provides a platform for consumers to purchase and sell tickets typically for entertainment-related events. On April 19, 2022, at 5:36 PM, Plaintiff purchased tickets to a concert from Defendant's website. At 7:49 PM that same day, Plaintiff sent an email requesting a full refund and for Defendant to cancel her order. On April 20, 2022, at 4:48 PM, Plaintiff sent another email to Defendant claiming Plaintiff did not authorize the purchase.

On April 21, 2022, Defendant responded to Plaintiff's cancellation request. Defendant's fraud prevention team reviewed the purchase and was not able to identify any indication that Plaintiff's purchase was unauthorized. Defendant restated their Final Sale policy and thus, per company policy,

1 was unable to refund Plaintiff for her purchase. As a courtesy, Defendant provided Plaintiff with  
2 information about how to resell her ticket.

3 Plaintiff again responded to Defendant stating that her “purchase was completed by a minor  
4 and was unauthorized” and threatened to move forward with a police report if Defendant did not  
5 provide a refund. Defendant responded restating their Final Sale policy per their website terms and  
6 conditions which states that their sellers do not provide order cancellations, returns or refunds, unless  
7 the sellers do not meet their respective obligations under the terms and conditions of the purchase. As  
8 mentioned above, Defendant accurately and timely provided Plaintiff with her tickets per her valid  
9 purchase on April 19, 2022.

10 **B. Status of Service.**

11 All parties to this case have been served.

12 **C. Possible Joinder of Additional Parties.**

13 Plaintiff does not presently intend to add any additional class representatives, but may do so  
14 as the case progresses in response to currently unforeseen developments. Plaintiff does not anticipate  
15 adding any additional defendants.

16 Defendant does not presently intend to add any additional parties but reserves the right to do  
17 so.

18 **D. Amendments to the Pleadings.**

19 Plaintiff may, at the appropriate time and if appropriate based on how discovery unfolds, seek  
20 leave to file an amended complaint adding additional proposed class representatives as named  
21 Plaintiffs.

22 **E. Basis for Jurisdiction and Venue.**

23 **Plaintiff’s Position:**

24 The Complaint alleges that the Court has subject matter jurisdiction over this dispute under  
25 CAFA (28 U.S.C. § 1332(d)(2)) because the amount in controversy exceeds \$5,000,000 and the matter  
26 is a class action in which one or more members of the proposed class are citizens of a state different  
27 from Defendant.  
28

1 The Court has personal jurisdiction over Defendant because it does business in California. It  
2 advertises and sells event tickets in California, and serves a market for its event tickets in California.  
3 Defendant markets and sells event tickets to customers in California and harms customers in California.  
4 Plaintiff purchased a ticket on Defendant's website and paid illegal junk fees while in California.

5 Venue is proper under U.S.C. § 1391(b)(2) because a substantial part of Defendant's conduct  
6 giving rise to the claims occurred in this District, including selling event tickets to Plaintiff.

7 **Defendant's Position:**

8 Defendant does not dispute subject matter jurisdiction. However, Defendant disputes that this  
9 Court has personal jurisdiction over Defendant due to Defendant's lack of contacts with the forum  
10 state.

11 **F. Discovery.**

12 i. Changes to Rule 26

13 The Parties do not propose changes to the timing, form, or requirement of disclosures under  
14 Rule 26(a). The Parties' proposed case schedule through class certification, including timing as to Rule  
15 26(a) disclosures, is provided below in section P.

16 ii. Scope and phasing of discovery

17 Plaintiff anticipates conducting fact discovery on, among other topics, Defendant's price  
18 representations, Defendant's fees, Defendant's sales to putative class members, Defendant's financials,  
19 Plaintiff's purchase from Defendant, and damages suffered by Plaintiff and members of the putative  
20 class. Because discovery on class certification issues often touch on merits issues, Plaintiff does not  
21 believe fact discovery should be bifurcated or phased. The Parties' proposed case schedule through  
22 class certification, including relevant discovery cutoffs, is provided below in section P.

23 Defendant asserts discovery should be bifurcated because Defendant contends Plaintiff does  
24 not have viable individual claims.

25 If Defendant's motion to dismiss is not granted, the parties further anticipate standard discovery  
26 including written discovery, document production, third party subpoena, depositions, and expert  
27 discovery.

28 The parties are not yet certain how many depositions of fact witnesses will be requested.

iii. Changes to Civil Rules for Discovery and Discovery Limitations

The Parties do not propose changes to the limitations on discovery imposed under the Civil Rules. The Parties will meet and confer regarding whether a Protective Order is appropriate in this case.

iv. Disclosure of Expert Witnesses

The Parties' proposed case schedule through class certification, including relevant deadlines for disclosure of expert witnesses, is provided below in section P.

v. Proposed Discovery Cutoff Dates

The Parties' proposed case schedule through class certification, including relevant discovery cutoff dates, is provided below in section P.

**G. Dispositive Motions.**

Plaintiff anticipates filing a motion for class certification.

On October 11, 2024, Defendant filed a motion to dismiss under Rules 12(b)(3) and 12(b)(6) of the Federal Rules of Civil Procedure [ECF No. 10]. By the Parties' agreement and the Court's October 17, 2024 minute order [ECF No. 12], Plaintiff filed her opposition to the motion on November 8, 2024, and Defendant will file its reply no later than November 25, 2024. The motion is not currently set for hearing.

The Parties may also file discovery motions, motions for summary judgment, motions *in limine*, and other pre-trial motions as appropriate or necessary depending on the progression of this litigation.

The Parties' proposed case schedule through class certification, including motion deadlines, is included below in section P.

**H. Avoiding Unnecessary Proof and Cumulative Evidence.**

The Parties are not aware of any methods that can be employed presently to avoid unnecessary proof and cumulative evidence, but will attempt to proceed through discovery efficiently.

The Parties do not anticipate limitations or restrictions on the use of testimony under Rule 702 of the Federal Rules of Evidence.

**I. Proposed Final Pretrial Conference Date.**

The Parties' proposed case schedule through class certification is provided below in section P. The Parties propose that a final pretrial conference be scheduled after the Court's order on Plaintiff's motion for class certification.

**J. Proposed Trial Date.**

The Parties' proposed case schedule through class certification is provided below in section P. The Parties propose that a trial date be set after the Court's order on Plaintiff's motion for class certification. Plaintiff seeks a jury trial. Plaintiff anticipates that trial would take 5 court days.

Defendant also requests a jury trial and anticipates trial will take 5-7 court days.

**K. Special Procedures.**

The Parties do not seek any special procedures. The Parties DO NOT consent to have a United States Magistrate Judge conduct all further proceedings in this case.

**L. Proposed Modification of Pretrial Procedure.**

The Parties do not propose any modifications to standard pretrial procedures at this time.

**M. Related Matters.**

The Parties are not aware of any related case pending in this district.

However, Defendant asserts that there is a related case filed in the Northern District of California which predates this matter and is the basis of Defendant's 12(b)(3) and 12(b)(6) Motion: *Gershzon v. Event Ticket Center, Inc.*, Case No. 3:24-cv-4142. Plaintiff's position is that this case and the *Gershzon* case are not related, as elaborated on in Plaintiff's opposition to Defendant's 12(b)(3) and 12(b)(6) motion.

**N. Settlement Discussions.**

The Parties are open to exploring early resolution of the case, but believe that settlement discussions and alternative dispute resolution will be more productive after this case advances procedurally.

**O. Other Matters.**

The Parties have no other matters to raise at this time.

**P. Proposed Case Schedule.****Plaintiff's Proposed Schedule**

Scheduled Event	Proposed Dates
Deadline to Exchange Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1)	November 19, 2024
Deadline to file a motion to amend the pleadings or add parties	January 31, 2025
Deadline for Close of Fact Discovery on issues related to Class Certification	April 18, 2025
Expert reports on class certification issues on which party has burden	May 4, 2025
Rebuttal expert reports on class certification issues	June 6, 2025
Close of expert discovery for issues related to class certification	June 20, 2025
Deadline to File Motion for Class Certification	June 27, 2025
Deadline to File Class Certification Opposition and any <i>Daubert</i> motions.	July 25, 2025
Deadline to File Class Certification Reply and Oppositions to any <i>Daubert</i> motions.	August 22, 2025
Deadline to File Reply in Support of any <i>Daubert</i> motions	September 5, 2025

**Defendant's Proposed Schedule**

<b>Scheduled Event</b>	<b>Proposed Dates</b>
Deadline to Exchange Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1)	November 19, 2024
Deadline to file a motion to amend the pleadings or add parties	January 31, 2025
Deadline for Close of Fact Discovery on issues related to Class Certification	July 11, 2025
Expert reports on class certification issues on which party has burden	August 8, 2025
Rebuttal expert reports on class certification issues	August 29, 2025
Close of expert discovery for issues related to class certification	September 5, 2025
Deadline to File Motion for Class Certification	September 12, 2025
Deadline to File Class Certification Opposition and any <i>Daubert</i> motions.	October 17, 2025
Deadline to File Class Certification Reply and Oppositions to any <i>Daubert</i> motions.	November 7, 2025
Deadline to File Reply in Support of any <i>Daubert</i> motions	December 5, 2025

The Parties propose that deadlines for the close of merits fact discovery, dispositive motions, pretrial conference, merits expert discovery, and trial be set following the Court's decision on class certification.

1 Dated: November 12, 2024

Respectfully submitted,

2 By: /s/ Martin Brenner

3 Simon Franzini (Cal. Bar No. 287631)

4 simon@dovel.com

5 Martin Brenner (Cal. Bar No. 333540)

6 martin@dovel.com

7 DOVEL & LUNER, LLP

8 201 Santa Monica Blvd., Suite 600

9 Santa Monica, California 90401

10 Telephone: (310) 656-7066

11 Facsimile: (310) 656-7069

12 *Attorneys for Plaintiff*

13 By: /s/ Omar V. Hernandez

14 Peter B. Maretz (Cal. Bar No. 144826)

15 pmaretz@stokeswagner.com

16 Christina J. Tantoy (Cal. Bar No. 308237)

17 ctantoy@stokeswagner.com

18 Omar V. Hernandez (Cal. Bar No. 340089)

19 ohernandez@stokeswagner.com

20 STOKES WAGNER ALC

21 401 W. A Street, Suite 2235

22 San Diego CA 92101

23 Telephone: (619) 232-4261

24 Facsimile: (619) 232-4840

25 *Attorneys for Defendant*